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*FW*

PATENT APPLICATION  
Docket No. 15436.436.3

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of )  
Ralph H. Johnson )  
Serial No.: 10/026,019 ) Art Unit  
Confirmation No.: 6105 ) 2828  
Filed: December 20, 2001 )  
For: VERTICAL CAVITY SURFACE )  
EMITTING LASER INCLUDING INDIUM )  
ANTIMONY AND NITROGEN IN THE )  
ACTIVE REGION )  
Examiner: Than M. Nguyen )

Mail Stop RCE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

### TRANSMITTAL FOR REQUEST FOR CONTINUED EXAMINATION

Sir:

This is a Request for Continued Examination (RCE) under 37 CFR § 1.114 for the above-identified application.

A. Enclosed

X A Preliminary Amendment for entry in the present application.

X Terminal Disclaimer to Obviate a Double Patenting Rejection for Application Number 10/026,044.

08/20/2004 AWONDAF1 00000077 10026019

01 FC:1801  
02 FC:1202  
03 FC:1201

770.00 OP  
234.00 OP  
516.00 OP

\* Admitted only in California

† Admitted only in New York

- X Terminal Disclaimer to Obviate a Double Patenting Rejection for Application Number 10/026,055.
- X Terminal Disclaimer to Obviate a Double Patenting Rejection for Application Number 10/026,016.
- X PTO-2038 Credit Card Payment Form includes the amount of \$330.00 to cover the fee for the three Terminal Disclaimers.
- X To render this RCE timely filed, enclosed is a Petition for Three-Month Extension of Time.
- X PTO-2038 Credit Card Payment Form includes the amount of \$950.00 to cover the fee for the Extension of Time.
- X A Certificate of Mailing by "Express Mail" certifying a filing date for the enclosed application by use of Express Mail Label No. EV432690912US.

C. Payments

- X Form PTO-2038 submitting payment in the amount of \$2,800.00 is enclosed to cover:
  - X the \$1,520.00 RCE filing fee, including all additional independent and dependent claims;
  - X the \$330.00 fee for the three Terminal Disclaimers; and
  - X the \$950.00 petition fee for the three-month extension of time.
- X The Commissioner is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 23-3178.
  - X Any additional filing fees required under 37 CFR § 1.16.
  - X Any patent application processing fees under 37 CFR § 1.17.
- X The Commissioner is hereby authorized to charge payment of the following fees during the pendency of this application or credit any overpayment to Deposit Account No. 23-3178.
  - X Any filing fees under 37 CFR § 1.16 for presentation of extra claims.
  - X Any patent application processing fees under 37 CFR § 1.17.

X A duplicate copy of this letter is enclosed.

Please address all future correspondence in connection with the above-identified patent application to the attention of the undersigned.

Dated this 17 day of August 2004.

Respectfully submitted,



ERIC L. MASCHOFF  
Attorney for Applicant  
Registration No. 36,596  
Customer No. 022913  
Telephone: (801) 533-9800



PATENT APPLICATION  
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		)
Confirmation No.:	6105	)
		)
Customer No.:	022913	)
		)
Examiner:	Than M. Nguyen	)

**PRELIMINARY AMENDMENT AND RESPONSE**

Mail Stop RCE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Applicants submit this Preliminary Amendment and Response in response to the Examiner's Final Office Action mailed February 17, 2004. Enclosed herewith in support of the Amendment is a Terminal Disclaimer in response to the Examiner's non-statutory double patenting rejection. Reconsideration is respectfully requested in view of the following amendments and remarks.

**Amendments to the Claims** are reflected in the listing of claims which begins on page 2 of this paper.

**Remarks/Arguments** begin on page 7 of this paper.